IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.25876 OF 2005

Mrs.Concecion Wd/o.Minguel
Francis D'Costa Petitioner

versus

State of Maharashtra & another Respondent

Mr.A.M.Saraogi for petitioner.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 9th November 2005

PC :

1. Mentioned. Not on board.

2. Mr.Saraogi appearing for the petitioner states that pursuant to the order dated 7th November 2005, a copy of which was received by the petitioner only yesterday, the Municipal Corporation has declared that the sheds constructed by the petitioner are unauthorised and if the petitioner does not take steps to remove the same, the Municipal Corporation will proceed to demolish them. He apprehends that the order will be implemented forthwith. He states that a copy of writ petition was served on the

Ward Officer today morning. He seeks limited protection from this Court.

3. When this petition was moved I brought it to the notice of Mr.Saraogi that the premises are in Mumbai. It is the MCGB who is proceeding to take impugned action. The entire cause of action has arisen in Greater Mumbai. Therefore, the petition ought to have been filed on the Original Side and moved before an appropriate Court. This petition invokes the Court's powers under Article 226 and seeks Writ of Mandamus to the MCGB.

4. Mr.Saraogi is unable to dispute this position but seeks protection for limited period. At the request of Mr.Saraogi, writ petition is returned to the petitioner for presentation to the appropriate Court. However, respondent no.2 shall not proceed to implement the order dated 7th November 2005 for a period of ten days from today.

(S.C.DHARMADHIKARI, J.)